

Hon. Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ESTHER HOFFMAN; et al.,

PLAINTIFFS,

v.

TRANSWORLD SYSTEMS
INCORPORATION; et. al.,

DEFENDANTS.

Case No.: 18-cv-1132-TSZ

**JOINT STATUS REPORT AND JOINT
STIPULATED MOTION AND
PROPOSED ORDER TO CONTINUE
TRIAL DATE AND PRETRIAL
DEADLINES**

**NOTED ON MOTION CALENDAR:
MAY 25, 2022**

1. Plaintiffs Esther Hoffman, Sarah Douglass, Anthony Kim and Il Kim and Daria Kim, husband and wife and the marital community comprised thereof, on behalf of themselves and all others similarly situated (“Plaintiffs”) and Defendants Transworld Systems Incorporated (“TSI”), Patenaude and Felix, A.P.C. (the “Patenaude law firm”), Matthew Cheung, and the marital community comprised of Matthew Cheung and Jane Doe Cheung (“Cheung”), and National Collegiate Student Loan Trusts 2004-2, 2005-2, 2005-3, 2006-1, 2006-3, 2007-4 (the “NCSLT Defendants,” and all, collectively, the “parties”), through counsel provide this Joint

JOINT STATUS REPORT AND MOTION
CONTINUING DEADLINES

18-CV-1132-TSZ

LOCKE LORD LLP
200 VESEY STREET, 20TH FLOOR
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1 Status Report pursuant to the Stipulated Motion and Order (Dkt. 295) and the Court's May 20,
 2 2022 Minute Order (Dkt. 307), to provide the Court with a status report and a proposed schedule
 3 for the briefing and noting of the pending motion for class certification, the pending and
 4 forthcoming motions for summary judgment, and forthcoming motions related to expert
 5 witnesses in such time that that allows sufficient opportunity for the parties to complete certain
 6 written discovery and continued deposition of TSI as recently ordered by the Court (Dkt. 307),
 7 as well as an expert witness deposition and the stipulated deposition(s) of two non-parties as
 8 previously approved by the Court.
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10
 11 2. The parties also jointly request a continuance of the current October 3, 2022 trial
 12 date to ensure that the Court has sufficient time to address the substantial pending and
 13 forthcoming motions addressed below and the parties have sufficient time to prepare for trial if
 14 necessary.
 15

16 **I. JOINT STATUS REPORT**

17 3. The parties have met and conferred and propose the following schedules for each
 18 of the pending and forthcoming motions:

19 a. Motions Related to Expert Witnesses

- 20 i. To be filed on or before July 21, 2022;
- 21 ii. Opposition to be filed on or before August 15, 2022;
- 22 iii. Reply to be filed on or before September 2, 2022; and
- 23 iv. To be noted for consideration on September 2, 2022.
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b. Dispositive Motions (Not Currently Pending)¹

- i. To be filed on or before July 21, 2022;
- ii. Opposition to be filed on or before August 22, 2022;
- iii. Reply to be filed on or before September 2, 2022; and
- iv. To be noted for consideration on September 2, 2022.

c. Motion for Class Certification (Dkt. 232)

- i. Opposition to be filed on or before August 8, 2022;
- ii. Reply to be filed on or before September 2, 2022;
- iii. To be noted for consideration on September 2, 2022.

4. Though the schedules for these motions depart from the schedules set forth in Local Rule 7, the parties believe additional time for the briefing of the oppositions and replies on these motions is warranted given the complexities of this case and these motions, as well as the amount of time that the moving party(ies) have to file opening briefs, which is necessitated by the current posture of the case and the last remaining discovery still to be completed. The parties believe that the foregoing schedule is appropriate and necessary given the issues presented in this action.

¹ Pursuant to the parties' agreements and Court's order continuing the deadline to file motions for summary judgment until after the Court's decisions on Plaintiffs' motions relating to discovery from TSI (Dkt. 295), neither the NCSLT Defendants nor Plaintiffs have yet filed motions for summary judgment. The Patenaude law firm and Cheung have already filed a motion for summary judgment (Dkt. 284). Plaintiffs filed their opposition to the Patenaude law firm and Cheung's motion on May 23, 2022, and that motion is noted for consideration on May 27, 2022. TSI also filed a motion for summary judgment (Dkt. 161), TSI intends to withdraw its motion (Dkt. 161) pursuant to LCR 7(l) and file a motion for summary judgment by the dispositive motion deadline; Plaintiffs do not agree that TSI should be permitted to file a new motion for summary judgment.

II. STIPULATED JOINT MOTION

5. Additionally, pursuant to LCR 7(d)(1) and LCR 10(g), the parties hereby respectfully submit this stipulated motion for entry of an order (a) continuing the trial date, and (b) continuing the intervening pretrial deadlines.

6. The parties believe that, given the motion schedules listed above, good cause exists to continue the trial date, currently October 3, 2022, and all pretrial deadlines set forth in the Court's Order Setting Trial and Related Dates (the "Scheduling Order," Dkt. 146) by approximately six months.

7. The parties submit that good cause exists to modify the trial date and intervening pretrial deadlines because there remains substantial motion practice to be completed, and time needed for decisions on these motions, that will determine whether this action may go forward on a class basis, and as to what specific claims and against which defendants, if any. The parties have been diligent in litigating this action but certain complexities, particularly in discovery, have resulted in delays. It will be exceedingly difficult and inefficient for the parties to prepare for trial without the guidance of the Court's rulings on these significant motions.

8. "The district court may modify the pretrial schedule 'if it cannot reasonably be met despite the diligence of the part[ies] seeking the extension.'" *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). (quoting Fed. R. Civ. P. 16 advisory committee's notes). A schedule may be modified only for good cause. Fed. R. Civ. P. 16(b)(4); LCR 16(b)(5). When determining whether a party has demonstrated good cause, the court "primarily considers the diligence of the part[ies] seeking the amendment." *Johnson*, 975 F.2d at 609.

9. Here, the parties have been diligent in working towards completing discovery and preparing for trial before the current October 3, 2022 trial date. Even though this case is a putative class action with six named Plaintiffs, eight defendants, and numerous complicated and sensitive discovery issues, the parties have successfully cooperated and completed fact and class discovery, have served expert disclosures under Fed. R. Civ. P. 26, and are working towards completing one expert deposition and the one remaining continued 30(b)(6) deposition in the coming weeks. The parties are not requesting additional time to complete discovery, or that any deadline in the initial Scheduling Order that has already passed be resurrected or continued. Rather, given the proposed briefing and noting schedules of the motions above, the parties believe that good cause exists to continue the deadlines related to trial preparation to after resolution of the class certification motion, dispositive motions, and motions related to expert witnesses.

10. The parties propose that the trial date be continued by approximately six months to April 3, 2023, or the first available date thereafter on the Court's calendar, and that the pretrial deadlines contained in the Scheduling Order be continued as set forth below:

	<i>Date in Current Scheduling Order (Dkt. 146)</i>	<i>[Proposed] Continued Date</i>
JURY TRIAL DATE	October 3, 2022	April 3, 2023
Mediation per LCR 39.1(c)(3) HELD no later than Under Local Civil Rule 39.1(c), the Court ORDERS that the parties engage in mediation. The parties may seek relief from this requirement by motion and upon a showing of good cause.	July 29, 2022	January 30, 2023

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Letter of compliance as to LCR 39.1 FILED by A roster of Local Civil Rule 39.1 mediators can be located on the Internet at www.wawd.uscourts.gov .	August 5, 2022	February 6, 2023
All motions <i>in limine</i> must be filed by and noted for the third Friday thereafter; responses shall be due on the noting date; no reply shall be filed unless requested by the Court	August 18, 2022	February 17, 2023
Agreed Pretrial Order due	September 16, 2022	March 20, 2023
Pretrial conference to be held at 10:00 a.m. on	September 23, 2022	March 27, 2023

11. The parties believe this will afford the Court sufficient time to decide the class certification motion, dispositive motions, and expert witness motions and for the parties to prepare for trial in an orderly fashion consistent with those rulings.

12. The parties contemplate that the case schedule, including the discovery deadline, may need to be amended if one or more classes are certified.

13. The Scheduling Order currently sets a trial date of October 3, 2022. Accordingly, the instant joint motion complies with LCR 7(j) which instructs that “[a] motion for relief from a deadline should, whenever possible, be filed sufficiently in advance of the deadline to allow the court to rule on the motion prior to the deadline.”

14. If it would be beneficial for the Court, the parties are available for a status conference to address the scheduling issues discussed herein.

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SUBMITTED and STIPULATED this 25th day of May, 2022.

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III. [PROPOSED] ORDER

The Court having considered the foregoing stipulated motion, and finding that good cause has been shown for the requested relief, now therefore, it is hereby

ORDERED, as follows:

1. Motions related to expert witnesses are to be filed on or before July 21, 2022; any opposition thereto to be filed on or before August 15, 2022; any reply thereto to be filed on or before September 2, 2022; and such motions are to be noted for consideration on September 2, 2022.

2. Dispositive Motions for summary judgment which have not yet been filed are to be filed on or before July 21, 2022; any opposition thereto to be filed on or before August 22, 2022; any reply thereto to be filed on or before September 2, 2022; and such motions are to be noted for consideration on September 2, 2022.

3. Defendants' opposition to Plaintiffs' motion for class certification to be filed on or before August 8, 2022; Plaintiffs' reply to be filed on or before September 2, 2022; and the motion to be noted for consideration on September 2, 2022.

4. The trial date and intervening pretrial deadlines are continued in accordance with the below.

5. No other deadlines that have previously passed shall be resurrected at this time.

	<i>Date in Current Scheduling Order (Dkt. 146)</i>	<i>[Proposed] Continued Date</i>
JURY TRIAL DATE	October 3, 2022	April 3, 2023
Mediation per LCR 39.1(c)(3) HELD	July 29, 2022	January 30, 2023

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no later than		
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DONE THIS _____ day of _____ 2022.

Hon. Thomas S. Zilly
United States District Judge

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